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LEGISLATIVE ACTION

Senate

House

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Floor: 4/AD/2R

04/28/2009 11:49 AM

Senator Richter moved the following:

Senate Amendment (with title amendment)

Delete lines 3246 - 3359

and insert:

7. An attorney licensed to practice law in this state who provides foreclosure rescue-related services as an ancillary matter to the attorney's representation of a homeowner as a client.

(c) "Foreclosure-related rescue services" means any good or service related to, or promising assistance in connection with:

1. Stopping, avoiding, or delaying foreclosure proceedings concerning residential real property; or



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13 2. Curing or otherwise addressing a default or failure to
14 timely pay with respect to a residential mortgage loan
15 obligation.

16 (d) "Foreclosure-rescue transaction" means a transaction:

17 1. By which residential real property in foreclosure is
18 conveyed to an equity purchaser and the homeowner maintains a
19 legal or equitable interest in the residential real property
20 conveyed, including, without limitation, a lease option
21 interest, an option to acquire the property, an interest as
22 beneficiary or trustee to a land trust, or other interest in the
23 property conveyed; and

24 2. That is designed or intended by the parties to stop,
25 avoid, or delay foreclosure proceedings against a homeowner's
26 residential real property.

27 (e) "Homeowner" means the ~~any~~ record title owner of
28 residential real property ~~that is the subject of foreclosure~~
29 ~~proceedings.~~

30 (f) "Residential real property" means real property
31 consisting of one-family to four-family dwelling units, ~~one of~~
32 ~~which is occupied by the owner as his or her principal place of~~
33 ~~residence.~~

34 (g) "Residential real property in foreclosure" means
35 residential real property against which there is an outstanding
36 notice of the pendency of foreclosure proceedings recorded
37 pursuant to s. 48.23.

38 Section 62. Paragraph (b) of subsection (2) of section
39 501.1377, Florida Statutes, as amended by this act, is amended
40 to read:

41 501.1377 Violations involving homeowners during the course



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42 of residential foreclosure proceedings.-

43 (2) DEFINITIONS.-As used in this section, the term:

44 (b) "Foreclosure-rescue consultant" means a person who
45 directly or indirectly makes a solicitation, representation, or
46 offer to a homeowner to provide or perform, in return for
47 payment of money or other valuable consideration, foreclosure-
48 related rescue services. The term does not apply to:

49 1. A person excluded under s. 501.212.

50 2. A person acting under the express authority or written
51 approval of the United States Department of Housing and Urban
52 Development or other department or agency of the United States
53 or this state to provide foreclosure-related rescue services.

54 3. A charitable, not-for-profit agency or organization, as
55 determined by the United States Internal Revenue Service under
56 s. 501(c)(3) of the Internal Revenue Code, which offers
57 counseling or advice to an owner of residential real property in
58 foreclosure or loan default if the agency or organization does
59 not contract for foreclosure-related rescue services with a for-
60 profit lender or person facilitating or engaging in foreclosure-
61 rescue transactions.

62 4. A person who holds or is owed an obligation secured by a
63 lien on any residential real property in foreclosure if the
64 person performs foreclosure-related rescue services in
65 connection with this obligation or lien and the obligation or
66 lien was not the result of or part of a proposed foreclosure
67 reconveyance or foreclosure-rescue transaction.

68 5. A financial institution as defined in s. 655.005 and any
69 parent or subsidiary of the financial institution or of the
70 parent or subsidiary.



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71 6. A licensed mortgage broker, ~~mortgage lender,~~ or
72 ~~correspondent~~ mortgage lender that provides mortgage counseling
73 or advice regarding residential real property in foreclosure,
74 which counseling or advice is within the scope of services set
75 forth in chapter 494 and is provided without payment of money or
76 other consideration other than a loan origination mortgage
77 ~~brokerage~~ fee as ~~defined in s. 494.001.~~

78 7. An attorney licensed to practice law in this state who
79 provides foreclosure rescue-related services as an ancillary
80 matter to the attorney's representation of a homeowner as a
81 client.

82

83 ===== T I T L E A M E N D M E N T =====

84 And the title is amended as follows:

85 Delete lines 151 - 152

86 and insert:

87 494.0076, and 494.0077, F.S.; conforming terms and
88 cross-references; amending s. 501.1377, F.S.; revising
89 definitions and conforming terms; exempting certain
90 attorneys from the definition of "foreclosure-rescue
91 consultant"; amending ss.